



U.S. Citizenship
and Immigration
Services

M

[REDACTED]

FILE:

[REDACTED]

Office: TEXAS SERVICE CENTER

Date:

APR 27 2004

IN RE:

Applicant:


[REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

for 
Robert P. Wiemann, Director
Administrative Appeals Office

APR 27 2004

identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy

DISCUSSION: The application was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director determined that the applicant failed to submit evidence to establish continuous residence in the United States since February 13, 2001. The director, therefore, denied the application.

On appeal, the applicant reiterates her claim to have resided in the United States since February 1, 2001. She submits additional copies of the same evidence she had previously furnished. The applicant asserts her eligibility for TPS, and requests a hearing in order that she can have the opportunity to talk to a judge.

A request for oral argument must set forth facts explaining why such argument is necessary to supplement the appeal. 8 C.F.R. § 103.3(b). The request fails to set forth facts explaining why such argument is necessary, and the request must therefore be denied.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state as designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

(iii) The applicant is a parolee or has a pending request for reparole; or

(iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of condition described in paragraph (f)(2) of this section.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Persons applying for TPS offered to El Salvadorans must demonstrate entry on or prior to February 13, 2001, that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. A subsequent extension of the TPS designation has been granted by the Secretary of the Department of Homeland Security, with validity until March 9, 2005, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The record reflects that the applicant submitted her application for TPS on May 15, 2001. In support of her application, the applicant submitted the following evidence:

- 1.) affidavit from [REDACTED] who stated she has known the applicant since she arrived in Henderson, Texas, on February 1, 2001;
- 2.) affidavit from [REDACTED] who stated she has known the applicant since February 1, 2001;
- 3.) affidavit from [REDACTED] who stated she is the applicant's sister, and that the applicant had lived in her home in Henderson, Texas, starting on February 1, 2001;
- 4.) affidavit from [REDACTED] who stated he is a former neighbor of the applicant's, and that he knows she has lived in Henderson, Texas, since February 1, 2001;
- 5.) affidavit from [REDACTED] who stated she lived one block from the applicant, and that she knows the applicant came to Henderson, Texas, on February 2, 2001;

- 6.) affidavit from [REDACTED] who stated she lived two houses from the applicant, and that she knows the applicant came to Henderson, Texas, on February 2, 2001;
- 7.) affidavit from [REDACTED] who stated she worked at First Baptist Church, and that she met the applicant through her work at the church and has known her since "210-01"; and,
- 8.) affidavit from [REDACTED] who stated she knows the applicant's sister, and that she met the applicant on February 7, 2001.

On January 17, 2003, the applicant was requested to submit evidence establishing that she had entered the United States prior to February 13, 2001, and that she had continuously resided in the United States since that date. In response, the applicant submitted copies of same affidavits from the eight individuals listed in Item Nos. 1-8, above. The applicant also submitted an affidavit from Rev [REDACTED] who identifies himself as the pastor of Canaan Christian Church of Bellaire, Houston, Texas, who stated the applicant had been an active member of the church since February 10, 2001.

On February 19, 2003, the director concluded that the applicant had failed to establish her qualifying continuous residence in the United States during the requisite period and denied the application.

On appeal, the applicant reiterates her claim to eligibility for TPS. The applicant submits copies of the same evidence listed in Item Nos. 1-8, above, which she had submitted on two previous occasions.

The applicant has failed to provide sufficient evidence to establish her claim to eligibility for TPS. The affidavit from [REDACTED] has little evidentiary weight or probative value as it does not provide basic information that is expressly required by 8 C.F.R. § 244.9(a)(2)(v). Specifically, the pastor does not explain the origin of the information to which he attests. The record reflects that CIS attempted to contact Reverend Solano on several occasions to verify the information in his letter, but CIS was unable to contact him at the number provided on the letter. In addition, the affidavits from the eight individuals attesting to the applicant's claimed presence in the United States prior to February 13, 2001, are not supported by any corroborative evidence. It is reasonable to expect that the applicant would have some type of contemporaneous evidence to support these assertions; however, no such evidence has been provided. Affidavits from acquaintances are not, by themselves, persuasive evidence of residence or presence. The applicant has, therefore, failed to establish that she has met the residence and physical presence requirements described in 8 C.F.R. §§ 244.2(b) and (c). Consequently, the director's decision to deny the application for temporary protected status will be affirmed.

The burden of proof is upon the applicant to establish that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.